



Department of Energy & Environmental Protection
Remediation Division
Roundtable
Q&A Newsletter
Vol. 17 ~ February 23, 2015

Presented below are the Department's responses to verbal comments presented at the Remediation Roundtable held on November 18, 2014, as well as selected written comments received by the Remediation Roundtable Planning Committee. The comments and responses may have been edited for clarification purposes.

SELECTED VERBAL COMMENTS FROM THE NOVEMBER 18, 2014 ROUNDTABLE:

Letters of No Audit

Comment: Is there something that can be done about the statutory language in the No Audit letter that discusses the re-opening of the verification within the 3 year window since that is what Lenders really seem to have a hard time understanding?

Response: *We will consider modifying the qualifier language in the "No Audit" letter by referring to the statute.*

Engineer Control Implementation: Site Status Survey

Comment: Are there any special accommodations made for Municipalities when requiring Financial Assurance (FA)? It has proven difficult for some Municipalities to acquire FA since the language in the statute for bonding does not always fit for certain towns.

Response: *The Department will look at that further for future changes. Bonding is one option available among other financial assurance mechanisms. It is important to note that if there is anything in the Regulations that is not working, such as this potential issue, now is the time to bring up the issues so they can be reviewed and modified if necessary as part of the Wave 2 revisions to the RSRs.*

Groundwater Compliance Monitoring Requirements

Comment: The four quarters is based upon seasons and not a calendar time frame, correct? For example, the month of June could be considered spring or summer.

Response: *Yes, the four monitoring quarters are seasonal to demonstrate that you have accurately evaluated the seasonal groundwater fluctuation. If you sample in a month such as June, for example, it is up to the LEP to justify why this sampling round is indicative of either spring or summer (dry vs wet) for that particular calendar year.*

Comment: Compliance sampling cannot occur until remediation is complete. How does this apply if you have multiple releases on the property and wanted to verify each release?

Response: *The RSRs are release based. Therefore, all wells need to be representative of that particular release and plume. So you may complete compliance monitoring for one release, but still have remedial actions ongoing at another part of the property. It is the LEP's decision whether to piecemeal compliance monitoring per release or to incorporate the entire site. However, there are many scenarios in which a site-wide monitoring plan would best suit the situation, such as multiple release areas/plumes and acreage of the site.*

Transformation Roadmap and New "Wave 2" Discussion Drafts- Deed Notice

Comment: Will the Deed Notice have a public notice requirement?

Response: *At a minimum the Department will require a notice to parties that hold an interest in the land. Further details are provided in the discussion draft.*

Comment: The Deed Notice Regulation Amendments will not be implemented until 2016, is that correct?

Response: *Yes, DEEP will start the regulation adoption process in 2015; however, 2016 is a more likely time frame for the adoption process to be completed. The Department intends to submit these with the entire "Wave 2" RSR amendments.*

Proposed Beneficial Use Soil Regulations Update

Comment: In previous meetings outside of the Roundtable the reuse of soil was discussed as a possible general permit. How did it go from considering a general permit to now proposed regulation changes?

Response: *A general permit process is still being considered, particularly for facilities.*

Comment: The Department has requested feedback as to whether <50% of the numeric criteria for Residential and GA areas is a proper threshold for a category A+ for Soil Reuse. However, it is difficult to evaluate if there is a possibility that the RSR action levels could potentially change.

Response: *There is always a possibility that the RSR criteria numbers can be updated in the future. This is the type of feedback the Department is looking for, and more specifically, why there is concern with this proposal and what modifications should be proposed instead.*

Comment: Would a site receiving soil from a Category B (Classification of Industrial / Commercial) need an ELUR?

Response: *The Department intends to propose an ELUR to accompany the reuse of Category B soil. This is an important element that did not appear in the presentation slides. The Department believes an ELUR is needed for protection of human health, to prevent future relocation, and for a level playing field with remediation activity. The Department may need to create a special type of ELUR for Category B reuse and realizes this could be an impediment. The Department encourages feedback on this aspect.*

Comment: Would the proposed changes to soil reuse be put into the proposed RSR changes? Do you anticipate any statutory changes?

Response: *At this time, the Department is considering modifications to the Solid Waste regulations not the RSRs. The Solid Waste regulations may continue to link to the RSRs.*

Risk Assessment Evaluation Report Update

Comment: What was the Department's general reaction to the CDM Smith Report?

Response: *The Department will be providing a response to the report in the near future.*

General Question

Comment: What will be in the “Wave 2” RSR proposed legislative changes?

Response: *The proposed changes will include the Public Discussion Documents the Department has published over the past year which can be found on the [DEEP website](#). Actual regulation language is still being developed for the proposed changes. The Department intends to publish a public hearing draft for review and comment in 2015.*